

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>UNITED STATES OF AMERICA</b>	:	<b>CRIMINAL NO.</b>	
	:		
<b>v.</b>	:	<b>DATE FILED:</b>	
	:		
<b>GENE BORTNICK</b>	:	<b>VIOLATIONS:</b>	<b>18 U.S.C. § 1344</b>
	:		<b>(Bank fraud -</b>
	:		<b>1 count)</b>
	:		<b>18 U.S.C. § 1343</b>
	:		<b>(Wire fraud -</b>
	:		<b>17 counts)</b>
	:		<b>18 U.S.C. § 152(7)</b>
	:		<b>(Transferring or</b>
	:		<b>concealing property</b>
	:		<b>in contemplation of</b>
	:		<b>bankruptcy -</b>
	:		<b>1 count)</b>
	:		<b>18 U.S.C. § 152(3)</b>
	:		<b>(False claim in</b>
	:		<b>bankruptcy -</b>
	:		<b>3 counts)</b>
	:		<b>18 U.S.C. § 152(1)</b>
	:		<b>(Concealing</b>
	:		<b>property of debtor-</b>
	:		<b>1 count)</b>
	:		<b>18 U.S.C. § 1957</b>
	:		<b>(Money laundering -</b>
	:		<b>2 counts)</b>
	:		<b>18 U.S.C. § 982</b>
	:		<b>(Criminal forfeiture)</b>

**INDICTMENT**

**COUNT ONE**

THE GRAND JURY CHARGES THAT:

At all times material to this Indictment:

## THE DEFENDANT AND HIS ENTITIES

1. Defendant GENE BORTNICK resided in Holland, Pennsylvania and owned and operated multiple corporations, all doing business out of the same facilities at 2700 Interplex Drive, Trevese, PA. Most of the corporations owned and operated by defendant GENE BORTNICK were in the business of manufacturing, importing and distributing fabric and finished garments. Further, defendant GENE BORTNICK and several of his companies often did business with factories and mills located overseas, particularly in Russia and the Ukraine.

2. MGL Corporation (hereinafter “MGL”) served as the central corporation for defendant GENE BORTNICK and his business activities. MGL was created in or about December, 1989, was incorporated in Pennsylvania, and did business from the office at 2700 Interplex Drive. MGL also maintained at various times satellite offices in New York, New York and Moscow, Russia. MGL primarily bought and distributed fabric and textiles.

3. MGL Apparel, Inc. (hereinafter “MGL Apparel”) was created in about June, 1994, was incorporated in Pennsylvania, and did business from the office at 2700 Interplex Drive. MGL Apparel primarily bought and distributed finished garments for resale.

4. Lorianna Stores, Inc. (hereinafter “Lorianna”) was created in or about May, 1997, was incorporated in Pennsylvania, and did business from the office at 2700 Interplex Drive. Lorianna served as a retail outfit, consisting at one point of over forty stores, selling finished garments bought mainly from or through defendant GENE BORTNICK’s other entities.

5. Defendant GENE BORTNICK was the President of MGL, MGL Apparel, and Lorianna. Further, defendant GENE BORTNICK’s wife, mother and father all served as officers, co-owners, and/or employees of MGL, MGL Apparel, and Lorianna, as well as other

companies controlled by defendant GENE BORTNICK. Further, additional relatives and friends of defendant GENE BORTNICK also worked as his employees, primarily through MGL.

#### THE BANK LOAN

6. Congress Financial Corporation (hereinafter “Congress”) was a wholly-owned subsidiary of First Union National Bank, which was a financial institution, the deposits of which were insured by the Federal Deposit Insurance Corporation. Congress was in the business of extending loans and financing.

7. On or about September 4, 1998, defendant GENE BORTNICK executed a loan agreement in which Congress agreed to loan up to \$13,000,000 to MGL, MGL Apparel, and Lorianna. On or about May 3, 1999, defendant GENE BORTNICK executed an amendment to his loan agreement with Congress, in which Congress agreed to loan up to \$20,000,000 to MGL, MGL Apparel, and Lorianna. The loan was inventory-based; that is, Congress and defendant GENE BORTNICK agreed that the amount of the loan would depend directly on the amount of eligible inventory held by MGL, MGL Apparel and Lorianna to support the loan amount and protect the ability of Congress to recoup its money in the event of a default. Under the loan agreement, defendant GENE BORTNICK was required to report periodically and accurately all inventory which was held by MGL, MGL Apparel and Lorianna and which was eligible to serve as a basis for the loan. Also under the loan agreement, only certain inventory was eligible to serve as a basis for the loan. Inventory which was not eligible to serve as a basis for the loan included supplies, slow-moving or obsolete inventory, inventory held on consignment, inventory not owned exclusively by the borrowers, and inventory held outside of the United States.

8. In or about October, 1998, after having obtained significant financing from Congress, defendant GENE BORTNICK caused his salary paid by MGL to increase from about \$20,000 per month to about \$51,000 per month for the rest of 1998. From in or about January, 1999 through in or about December, 1999, defendant GENE BORTNICK caused himself, his wife and his parents to receive together over \$1,000,000 in salary from MGL. From about September, 1999 through March 1, 2000, defendant GENE BORTNICK used the salary paid to himself and his wife to buy a luxury home located at 1251 Pelican Lane, Hollywood, Florida.

#### THE BANKRUPTCY PETITIONS

9. On or about January 20, 2000, defendant GENE BORTNICK filed and caused to be filed petitions for bankruptcy under Title 11, United States Code, in the United States Bankruptcy Court for the Eastern District of Pennsylvania on behalf of MGL (docket number 00-10804DWS), MGL Apparel (docket number 00-10805DWS), and Lorianna (docket number 00-10803WS). Under Title 11, the filing of a bankruptcy stays all efforts by creditors in collection of a debt. At the time of these bankruptcy petition filings, Congress was the only secured creditor and had total claims worth approximately \$22,000,000 against MGL, MGL Apparel and Lorianna. The claims of Congress far exceeded the claims of any other creditors.

#### THE SCHEME TO DEFRAUD

10. From in or about September, 1998 through on or about February 22, 2000, in the Eastern District of Pennsylvania and elsewhere, defendant

#### **GENE BORTNICK**

knowingly executed and attempted to execute a scheme to defraud Congress and First Union National Bank, and to obtain monies owned by and under the care, custody, and control of Congress and First Union National Bank, including up to approximately \$22,000,000 in financing, by means of false and fraudulent pretenses, representations, and promises.

### MANNER AND MEANS OF EXECUTING THE SCHEME

It was part of the scheme that:

11. Defendant GENE BORTNICK fraudulently obtained from Congress up to approximately \$22,000,000 financing to the defendant's companies, MGL, MGL Apparel, and Lorianna, by misrepresenting that there was sufficient eligible inventory to support the financing.

12. From on or about December 31, 1998 through on or about December 20, 1999, defendant GENE BORTNICK routinely signed and provided to Congress multiple fraudulent inventory report certifications in which he systematically misrepresented and inflated the amount of eligible inventory available to support the financing. Defendant GENE BORTNICK continued to attempt to increase the amount of financing which he obtained from Congress for his companies through fraud. Accordingly, the amount of net eligible inventory fraudulently reported by defendant GENE BORTNICK to Congress rose from approximately \$13,730,351 reported on or about December 31, 1998 to approximately \$24,029,220 reported on or about December 20, 1999.

13. From in or about October, 1998 through in or about December, 1999, defendant GENE BORTNICK knowingly misled auditors for Congress regarding the location of inventory held by the defendant's companies by leading auditors to conclude that none of the inventory being reported to Congress as eligible was held outside of the United States. Defendant GENE BORTNICK also knowingly misled auditors for Congress by providing auditors with significantly inflated amounts regarding the supposed costs of finished garments held by Lorianna.

14. To enrich himself and undermine the ability of Congress to recoup its loan, defendant GENE BORTNICK planned on and in fact saddled MGL, MGL Apparel, and Lorianna

with the approximately \$22,000,000 debt, diverted to himself, his family and his associates the proceeds of the fraudulent loan and significant assets belonging to MGL, MGL Apparel and Lorianna, and then intentionally drove those corporations into bankruptcy proceedings.

15. In anticipation of the bankruptcy filings, defendant GENE BORTNICK began in or about September 1999 acquiring a new luxury home in Florida, the State from where defendant GENE BORTNICK would begin in 2000 to run his new fabric and garment companies after having bankrupted successfully MGL, MGL Apparel and Lorianna.

16. In anticipation of and subsequent to the bankruptcy filings, defendant GENE BORTNICK created the following new fabric and garment companies to simply replace the debt-laden MGL, MGL Apparel and Lorianna, whose clients, contracts, business and income streams were then wrongfully diverted by defendant GENE BORTNICK to the new companies:

- a. On or about October 7, 1999, defendant GENE BORTNICK caused the creation of a new company, Fabric & Garment International, Inc. (hereinafter “FGI”). Defendant GENE BORTNICK was the President and 25% owner of FGI; his mother, father and wife acted as the remaining officers and owners. Thereafter, defendant GENE BORTNICK caused FGI to take over the contracts and clients of MGL and MGL Apparel, including overseas mills Evis, Zorya, Shpola, and Alexander & Ya;
- b. On or about October 7, 1999, defendant GENE BORTNICK caused the creation of a new company, Lorianna International, Inc. (hereinafter “Lorianna International”). Although A.P., a person known to the grand

jury, was held out as the President of Lorianna International, defendant GENE BORTNICK exercised de facto control over Lorianna International; and

- c. On or about January 27, 2000, defendant GENE BORTNICK caused the creation and incorporation in Florida of a new company, Fashion Direct International, Inc. (hereinafter "FDI"). Defendant GENE BORTNICK was the President and 25% owner of FDI; his mother, father and wife acted as the remaining officers and owners. FDI began to do business with the same companies which had done business with MGL, MGL Apparel, and Lorianna.

17. In anticipation of the bankruptcy filings, defendant GENE BORTNICK concealed and fraudulently transferred the assets and inventory of MGL, MGL Apparel and Lorianna, including through the following ways:

- a. On or about October 21, 1999, defendant GENE BORTNICK misled Congress into consenting to the sale of the twelve best Lorianna retail stores and the inventory contained therein to Lorianna International for approximately \$760,000. Defendant GENE BORTNICK misrepresented the sale as an arms-length agreement with an outside investor, when in fact, as defendant GENE BORTNICK well knew, defendant GENE BORTNICK exercised de facto control over Lorianna International, and A.P., the person held out as the President of Lorianna International, was an employee of MGL. Further, defendant GENE BORTNICK misrepresented

that the twelve stores sold to Lorianna International would continue to purchase products from Lorianna and thereby provide an income stream to Lorianna which could be used to help pay down the significant outstanding debt to Congress. In fact, from on or about October 26, 1999 through on or about January 20, 2000, defendant GENE BORTNICK caused Lorianna to transfer approximately 43,000 higher-quality garments to Lorianna International, for which Lorianna received no payment, and whose transfers were not reflected on the inventory report certifications which defendant GENE BORTNICK submitted to Congress;

- b. From on or about December 3, 1999 through on or about December 16, 1999, defendant GENE BORTNICK diverted assets from MGL to UNICOM AP Chemical Corporation (hereinafter "UNICOM") by causing MGL to transfer about 451,000 yards of fabric from its warehouse in Bensalem, PA to a warehouse in or about Avenel, New Jersey. Although A.P., a person known to the grand jury, was held out as the President of UNICOM, defendant GENE BORTNICK exercised de facto control over UNICOM. From no earlier than in or about June, 1999 through on or about December 31, 1999, the exact dates unknown to the grand jury, defendant GENE BORTNICK also diverted assets from MGL to UNICOM by causing MGL to transfer to UNICOM about 417,000 yards of fabric located in a warehouse in or about Gronau, Germany;



- c. From on or about December 14, 1999 through on or about December 27, 1999, defendant GENE BORTNICK caused Kortex, a company in the business of manufacturing fabric, located overseas and 76% owned by MGL, to ship approximately 280,000 meters of MGL fabric and other material to a warehouse in Szekszard, Hungary. Defendant GENE BORTNICK caused his new company, FGI, to obtain the material shipped to Hungary; and
- d. On or about December 22, 1999, defendant GENE BORTNICK caused MGL to wire approximately \$40,368 to the company Evis, located in Russia, for goods and work performed for the benefit of FGI. On or about December 28, 1999, defendant GENE BORTNICK caused MGL to wire approximately \$37,272 to Evis for goods and work performed for the benefit of FGI.

18. In an attempt to perpetuate and conceal his scheme and render it difficult to detect and redress, on or about February 4, 2000, after the filings of the bankruptcy petitions, defendant GENE BORTNICK signed under penalties of perjury and caused to be filed in the bankruptcy proceedings fraudulent schedules and statement of financial affairs on behalf of debtors MGL, MGL Apparel and Lorianna. In these fraudulent schedules and statements of financial affairs, defendant GENE BORTNICK:

- a. misrepresented that MGL had \$6,915,144 in inventory, a misrepresentation designed to match prior misrepresentations regarding inventory made by defendant GENE BORTNICK to Congress; and did not disclose the prior

transfers of MGL inventory to UNICOM through New Jersey and Germany;

- b. misrepresented that MGL Apparel had \$4,001,339 in inventory, a misrepresentation designed to match prior misrepresentations regarding inventory made by defendant GENE BORTNICK to Congress; and misrepresented that MGL Apparel owed the following debts to creditors: \$2,102,322 owed to Check Seal; \$497,102 owed to Kaluzhanka Sewing Factory; \$2,783,296 owed to Spetzemexport; and \$159,784 owed to Volga Sewing Factory, misrepresentations designed to match prior misrepresentations regarding inventory made by defendant GENE BORTNICK to his corporate tax return preparers performing a year-end review; and
- c. misrepresented that Lorianna had \$13,303,553 in inventory, a misrepresentation designed to match prior misrepresentations regarding inventory made by defendant GENE BORTNICK to Congress; and

19. On or about February 22, 2000, after the filing of the bankruptcy petitions, and without the knowledge or consent of the U.S. Bankruptcy Trustee and Congress, defendant GENE BORTNICK fraudulently transferred and concealed the assets of debtor MGL Corporation by causing approximately \$135,042, which was the property of debtor MGL Corporation, to be wired to the Bank of Cyprus, account number 0155-41-16106895.

20. Defendant GENE BORTNICK attempted to perpetuate and conceal his scheme and render it difficult to detect and redress by creating false, confusing, and incomplete document trails, including through the following methods:

- a. causing the general ledger of Lorianna to be adjusted on or about March 31, 1999 to reflect falsely an approximate \$2,137,071 increase in inventory overhead, which inflated the amount of inventory reflected by the corporate books and records of Lorianna;
- b. causing the general ledger of Lorianna to be adjusted on or about June 30, 1999 to reflect falsely an approximate \$1,221,300 increase in inventory overhead, and to reflect falsely an approximate \$769,891 reduction in cost of goods sold, which inflated the amount of inventory reflected by the corporate books and records of Lorianna;
- c. causing the purchase journal of MGL to be adjusted from on or about June 30, 1999 through on or about July 30, 1999 to reflect the purchase of approximately \$1,318,226 in "PVI," which defendant GENE BORTNICK then fraudulently reported to Congress as eligible inventory;
- d. causing the purchase journal of MGL Apparel to be adjusted from on or about August 3, 1999 through August 23, 1999 to reflect the purchase of approximately \$298,103 in "PVI," which defendant GENE BORTNICK then fraudulently reported to Congress as eligible inventory;
- e. causing the general ledger of MGL Apparel to be adjusted on or about August 31, 1999 to reflect falsely an approximate \$2,129,924 reduction in

costs of goods sold, which inflated the amount of inventory reflected by the corporate books and records of MGL Apparel; and

- f. causing the purchase journal of MGL to be adjusted in or about December, 1999 to falsely reflect transfers of fabric made by MGL to UNICOM in or about December, 1999, described in paragraph 17(b), as supposed “negative purchases” supposedly made periodically by UNICOM from in or about January, 1999 through in or about December, 1999.

21. Defendant GENE BORTNICK attempted to perpetuate and conceal his scheme and render it difficult to detect and redress by manipulating corporate forms, such as by using corporations under his control, including Lorianna International, FGI, FDI, and UNICOM, all of which were run by defendant GENE BORTNICK and his family out of the MGL office in Trevoise, PA, and all of which either had no employees or the same employees as MGL, MGL Apparel, and Lorianna, to serve as his vehicles for diverting the assets, contracts, business and income streams of MGL, MGL Apparel and Lorianna.

22. Defendant GENE BORTNICK attempted to perpetuate and conceal his scheme and render it difficult to detect and redress by attempting to mislead, confuse, and frustrate third parties attempting to review the true finances of the defendant and his companies, including through the following methods:

- a. On or about December 15, 1999, representatives of Phoenix Management, an outside management firm working at the request of Congress, arrived at the central offices of MGL and began their work of assessing defendant GENE BORTNICK’s companies and trying to run them efficiently. In or

about late December, 1999, defendant GENE BORTNICK and his family took a vacation until in or about mid-January, 2000, which had the effect of hindering the ability of Phoenix Management representatives to obtain information and accurately assess the finances of defendant GENE BORTNICK's companies. Prior to leaving, defendant GENE BORTNICK took further steps to undermine the ability of Phoenix Management to function properly, such as telling an employee who knew how to access corporate records, E.S., an individual known to the grand jury, to take a mandatory vacation, and by keeping certain offices locked and keeping records inaccessible to representatives of Phoenix Management;

- b. Because defendant GENE BORTNICK did not produce any financial statements for his financed companies, representatives of Phoenix Management requested that the corporate tax return preparers for defendant GENE BORTNICK perform a review of MGL, MGL Apparel and Lorianna for the period of November, 1999. In or about late January, 2000, and during the course of performing that review, the tax return preparers of defendant GENE BORTNICK confronted him with a total inventory figure significantly lower than what defendant GENE BORTNICK had been reporting to Congress. Defendant GENE BORTNICK responded by fraudulently representing to his corporate tax return preparers that MGL and MGL Apparel actually had several million dollars in additional debts which had not appeared on the corporate books

and records but supposedly were owed to companies located overseas, including Check Seal, Kaluzhanka Sewing Factory, also referred to as “Kaluga,” Spetzemexport, and Volga Sewing Factory, also referred to as “Volga,” and that these additional debts meant that defendant GENE BORTNICK’s companies still held several million dollars of additional inventory which had not appeared on the corporate books and records;

- c. In or about January, 2000, defendant GENE BORTNICK directed one of his employees, A.S., a person known to the grand jury, to make it difficult for representatives of Phoenix Management and the U.S. Bankruptcy Trustee to perform their duties. As part of this directive, defendant GENE BORTNICK instructed A.S. to encourage certain MGL employees who knew information which would be valuable to representatives of Phoenix Management and the U.S. Bankruptcy Trustee to leave their jobs; and
- d. In or about February, 2000, defendant GENE BORTNICK attempted to mislead representatives of the U.S. Bankruptcy Trustee by suggesting that amounts of missing inventory supposedly held by his bankrupted companies could be located or reconstructed by an examination of U.S. Customs bills incurred by defendant GENE BORTNICK’s companies.

23. Defendant GENE BORTNICK attempted to perpetuate and conceal his scheme and render it difficult to detect and redress by, from no later than in or about December, 1999 through at least in or about February, 2000, the exact dates unknown to the grand jury,

secretly monitoring and attempting to secretly monitor the conversations of people working at the MGL office, including employees of MGL, Phoenix Management, and representatives of the U.S. Bankruptcy Trustee, in order to monitor the statements and loyalties of his own employees and to determine what third-parties might know about the true finances of his corporations.

All in violation of Title 18, United States Code, Sections 1344 and 2.

**COUNTS TWO THROUGH EIGHTEEN**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One are incorporated here.
2. From in or about September, 1998 through on or about February 22, 2000,

in the Eastern District of Pennsylvania and elsewhere, the defendant

**GENE BORTNICK**

devised and intended to devise a scheme and artifice to defraud Congress Financial Corporation (hereinafter "Congress"), a wholly-owned subsidiary of First Union National Bank, and to obtain money and property by means of false fraudulent pretenses, representations and promises.

3. It was part of the scheme that, as explained in paragraphs 11 to 23 of Count One above, defendant GENE BORTNICK obtained up to approximately \$22,000,000 in inventory-based financing from Congress for MGL Corporation, MGL Apparel, Inc. and Lorianna Stores, Inc. by fraudulently inflating the amount of inventory reported to Congress, and by fraudulently transferring and concealing assets, including quantities of inventory, to third parties.



4. On or about each of the dates set forth below, in the Eastern District of Pennsylvania and elsewhere, the defendant

**GENE BORTNICK,**

for the purpose of executing the scheme described above, and aiding and abetting its execution, caused to be transmitted, from in or about Trevoise, Pennsylvania to in or about New York, New York, by means of wire communication in interstate commerce the signals and sounds described below for each count, each transmission constituting a separate count:

<b><u>COUNT</u></b>	<b><u>DATE</u></b>	<b><u>DESCRIPTION</u></b>
Two	December 31, 1998	Inventory Report Certification, reporting net eligible inventory of \$13,730,351
Three	April 8, 1999	Inventory Report Certification, reporting net eligible inventory of \$18,093,196
Four	April 16, 1999	Inventory Report Certification, reporting net eligible inventory of \$18,065,570
Five	April 22, 1999	Inventory Report Certification, reporting net eligible inventory of \$18,282,943
Six	May 14, 1999	Inventory Report Certification, reporting net eligible inventory of \$18,621,240
Seven	May 28, 1999	Inventory Report Certification, reporting net eligible inventory of \$19,403,639
Eight	June 17, 1999	Inventory Report Certification, reporting net eligible inventory of \$19,321,486
Nine	June 30, 1999	Inventory Report Certification, reporting net eligible inventory of \$20,017,959
Ten	July 22, 1999	Inventory Report Certification, reporting net eligible inventory of \$20,804,623

Eleven	August 30, 1999	Inventory Report Certification, reporting net eligible inventory of \$22,644,237
Twelve	September 22, 1999	Inventory Report Certification, reporting net eligible inventory of \$22,440,217
Thirteen	October 13, 1999	Inventory Report Certification, reporting net eligible inventory of \$22,596,967
Fourteen	October 21, 1999	Inventory Report Certification, reporting net eligible inventory of \$22,633,523
Fifteen	November 3, 1999	Inventory Report Certification, reporting net eligible inventory of \$22,947,493
Sixteen	November 26, 1999	Inventory Report Certification, reporting net eligible inventory of \$23,560,474
Seventeen	December 14, 1999	Inventory Report Certification, reporting net eligible inventory of \$23,701,217
Eighteen	December 20, 1999	Inventory Report Certification, reporting net eligible inventory of \$24,029,220

All in violation of Title 18, United States Code, Sections 1343 and 2.

## **COUNT NINETEEN**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One are incorporated here.
2. On or about January 20, 2000, defendant GENE BORTNICK filed petitions for bankruptcy under Title 11, United States Code, on behalf of MGL Corporation, Lorianna Stores, Inc., and MGL Apparel, Inc., which became debtors-in-possession under Chapter 11 of the Bankruptcy Code.
3. Under the Bankruptcy Code, a debtor-in-possession is allowed to continue to operate and manage a business while it is in bankruptcy, but must give notice to creditors before making expenditures which are outside the ordinary course of the business, and also must obtain Bankruptcy Court approval for those expenditures. Further, the property of a debtor-in-possession, including inventory, becomes the property of the bankruptcy estate and may be used to satisfy the claims of creditors according to the rights of each creditor. Further, the bankruptcy estate may undo preferential transfers of property from a debtor to a creditor if the property was transferred within ninety days of the filing of the bankruptcy petition, and within one year of the filing of the bankruptcy petition if the property was transferred to a creditor which was an insider.
4. Defendant GENE BORTNICK, as an agent and officer of the debtors-in-possession, was a fiduciary of the bankruptcy estates, that is, he was required to act in the best interests of the creditors.
5. In the bankruptcy cases, and as defendant GENE BORTNICK well knew, Congress Financial Corporation was the only secured creditor, and held claims collectively worth approximately \$22,000,000 against the debtors-in-possession.

6. From in or about June, 1999 through on or about December 31, 1999, at Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly and fraudulently transferred and concealed the property of MGL Corporation in contemplation of a case under Title 11 by MGL Corporation, and with the intent to defeat the provisions of Title 11, in that defendant GENE BORTNICK, acting as an agent and officer of MGL Corporation, transferred approximately 868,000 yards of fabric from MGL Corporation to UNICOM AP Chemical Corporation.

In violation of Title 18, United States Code, Sections 152(7) and 2.

## **COUNT TWENTY**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One, and paragraphs 2-5 of Count Nineteen, are incorporated here.

2. On or about February 4, 2000, at Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

### **GENE BORTNICK**

knowingly and fraudulently made a false declaration, certificate, verification and statement under penalty of perjury, in relation to a material matter in a case under Title 11, in that he filed a pleading in a Chapter 11 bankruptcy proceeding on behalf of MGL Corporation in which he:

- (a) represented on Schedule B, line 28, that MGL Corporation had \$6,915,144 in inventory, when defendant GENE BORTNICK knew that the amount of inventory reported was inflated;
- (b) did not disclose on the Statement of Financial Affairs, Question 3(a), any payments of a debt to UNICOM AP Chemical Corporation (hereinafter "UNICOM"), when defendant GENE BORTNICK knew that MGL Corporation had repaid to UNICOM a loan worth no more than approximately \$180,000 within the 90 days preceding the commencement of the bankruptcy;
- (c) did not disclose on the Statement of Financial Affairs, Question 3(b), any payments to or for the benefit of UNICOM, when defendant GENE BORTNICK knew that MGL Corporation had transferred to UNICOM approximately 868,000 yards of fabric within the year preceding the commencement of the bankruptcy; and

- (d) did not disclose on the Statement of Financial Affairs, Question 10, any other property transferred to or for the benefit of UNICOM, when defendant GENE BORTNICK knew that MGL Corporation had transferred to UNICOM approximately 868,000 yards of fabric within the year preceding the commencement of the bankruptcy.

In violation of Title 18, United States Code, Sections 152(3) and 2.

**COUNT TWENTY-ONE**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One, and paragraphs 2-5 of Count Nineteen, are incorporated here.

2. On or about February 4, 2000, at Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly and fraudulently made a false declaration, certificate, verification and statement under penalty of perjury, in relation to a material matter in a case under Title 11, in that he filed a pleading in a Chapter 11 bankruptcy proceeding on behalf of MGL Apparel, Inc. in which he:

- (a) represented on Schedule B, line 28, that MGL Apparel, Inc. had \$4,001,339 in inventory, when defendant GENE BORTNICK knew that the amount of inventory reported was inflated;
- (b) represented on Schedule F that creditor Check Seal had \$2,102,322 in claims against MGL Apparel, Inc., when defendant GENE BORTNICK knew that the amount of claims reported was inflated;
- (c) represented on Schedule F that creditor Kaluzhanka Sewing Factory had \$497,102 in claims against MGL Apparel, Inc., when defendant GENE BORTNICK knew that the amount of claims reported was inflated;
- (d) represented on Schedule F that creditor Spetzemexport had \$2,783,296 in claims against MGL Apparel, Inc., when defendant GENE BORTNICK knew that the amount of claims reported was inflated; and

- (e) represented on Schedule F that creditor Volga Sewing Factory had \$159,784 in claims against MGL Apparel, Inc., when defendant GENE BORTNICK knew that the amount of claims reported was inflated.

In violation of Title 18, United States Code, Sections 152(3) and 2.



**COUNT TWENTY-TWO**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One, and paragraphs 2-5 of Count Nineteen, are incorporated here.

2. On or about February 4, 2000, at Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly and fraudulently made a false declaration, certificate, verification and statement under penalty of perjury, in relation to a material matter in a case under Title 11, in that he filed a pleading in a Chapter 11 bankruptcy proceeding on behalf of Lorianna Stores, Inc. in which he represented on Schedule B, line 28, that Lorianna Stores, Inc. had \$13,303,553 in inventory, when defendant GENE BORTNICK knew that the amount of inventory reported was inflated.

In violation of Title 18, United States Code, Sections 152(3) and 2.

**COUNT TWENTY-THREE**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One, and paragraphs 2-5 of Count Nineteen, are incorporated here.

2. On or about February 22, 2000, at Philadelphia, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly and fraudulently concealed from creditor Congress Financial Corporation and the United States Trustee in connection with a case under Title 11 the property belonging to the estate of debtor MGL Corporation, in that defendant GENE BORTNICK transferred and caused to be transferred via wire to the Bank of Cyprus, account number 0155-41-16106895, approximately \$135,042 in monies possessed by debtor MGL Corporation.

In violation of Title 18, United States Code, Sections 152(1) and 2.

**COUNT TWENTY-FOUR**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One are incorporated here.
2. On or about September 10, 1999, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly engaged in and attempted to engage in, and aided, abetted, and wilfully caused, a monetary transaction affecting interstate commerce in criminally derived property of a value greater than \$10,000, that is, the negotiation of check number 1173, drawn on First Union National Bank account number 101000802386, in the approximate amount of \$68,500, for the purchase of a home at 1251 Pelican Lane, Hollywood, Florida, and such property was derived from a specified unlawful activity, that is, bank fraud, in violation of Title 18, United States Code, Section 1344, and wire fraud, in violation of Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Sections 1957 and 2.

**COUNT TWENTY-FIVE**

THE GRAND JURY FURTHER CHARGES THAT:

1. Paragraphs 1-9 and 11-23 of Count One are incorporated here.
2. On or about December 1, 1999, in the Eastern District of Pennsylvania and elsewhere, defendant

**GENE BORTNICK**

knowingly engaged in and attempted to engage in, and aided, abetted, and wilfully caused, a monetary transaction affecting interstate commerce in criminally derived property of a value greater than \$10,000, that is, the negotiation of check number 1204, drawn on First Union National Bank account number 101000802386, in the approximate amount of \$670,000, for deposit into Wilmington Trust of Pennsylvania Account numbers 400-1327-4177 and 400-2782-1928, and subsequently used by defendant GENE BORTNICK for the purchase of a home at 1251 Pelican Lane, Hollywood, Florida, and such property was derived from a specified unlawful activity, that is, bank fraud, in violation of Title 18, United States Code, Section 1344, and wire fraud, in violation of Title 18, United States Code, Section 1343.

In violation of Title 18, United States Code, Sections 1957 and 2.

### **NOTICE OF FORFEITURE**

1. As a result of the violations of Title 18, United States Code, Section 1344, as set forth in Count One of this Indictment, and of Title 18, United States Code, Section 1343, as set forth in Counts Two to Eighteen of this Indictment, the defendant

#### **GENE BORTNICK**

shall forfeit to the United States of America any property that constitutes, or is derived from proceeds obtained directly or indirectly from the commission of such offenses, as charged in this Indictment, including, but not limited to, the sum of \$21,900,000, and the property at 1251 Pelican Lane, Hollywood, Florida.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982(a)(2).

### **NOTICE OF FORFEITURE**

1. As a result of the violations of Title 18, United States Code, Section 1957, set forth in Counts Twenty-Four and Twenty-Five of this Indictment, the defendant

#### **GENE BORTNICK**

shall forfeit to the United States of America any and all property, real and personal, involved in such offenses, and any property traceable to such property, including, but not limited to, the sum of \$738,500, and the property at 1251 Pelican Lane, Hollywood, Florida.

2. If any of the property subject to forfeiture, as a result of any act or omission of the defendant:

- (a) cannot be located upon the exercise of due diligence;
- (b) has been transferred or sold to, or deposited with, a third party;
- (c) has been placed beyond the jurisdiction of the Court;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property which cannot be divided without difficulty;

it is the intent of the United States, pursuant to Title 18, United States Code, Section 982(b), incorporating Title 21, United States Code, Section 853(p), to seek forfeiture of any other property of the defendant up to the value of the property subject to forfeiture.

All pursuant to Title 18, United States Code, Section 982.

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FOREPERSON

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PATRICK L. MEEHAN  
United States Attorney